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SUBJECT: Tour of the Horizon with the Justice Minister

Summary

¶1. (SBU) In a February 6 meeting with Charge d'Affaires (CDA) Maryruth Coleman, Justice Minister Lovro Sturm outlined judicial reforms over the last two years including new buildings and increased staffing. He also previewed forthcoming legislative proposals that will give high courts new authority to settle cases, create new arbitration and mediation channels to resolve disputes, and completely rewrite the criminal code. The CDA raised property denationalization issues of concern to U.S. citizens, and Sturm responded that his legislative attempts to bring the property denationalization process to a close have been stymied by the political opposition. Sturm reported that the Government of Slovenia (GOS)-funded study into pre-WWII Jewish-owned property would be completed by February 15. End summary.

Judicial Reform

¶2. (SBU) Sturm noted considerable progress in the last two years to address the dilapidated physical infrastructure of Slovenia's judiciary, highlighting that some buildings were over 300 years old and that none had any security systems. He said the Ministry of Justice (MOJ) had built brand-new alarm-equipped facilities for the courts and prosecutors in Celje and Maribor, acquired a building from the Ministry of Education for judicial use in Ljubljana, and hoped to break ground in 2008 on a large new courthouse complex in Ljubljana. He also said the MOJ had hired ten percent more judges at all levels of the judiciary, which he emphasized was new staff, not a re-shuffling of existing personnel.

¶3. (SBU) Sturm stated that in the coming week he intended to propose to the Government several significant new draft laws to reform the judiciary even further. The first law would grant authority to higher courts to settle cases, instead of just sending them back to lower courts for reconsideration. (Comment: Currently, Slovenia's higher courts can only uphold lower-court rulings or remand cases back down, but they cannot overturn lower court decisions. Sturm's proposal would address a significant cause of current backlogs as cases ping-pong back and forth for years. End Comment.) Sturm said he had his work cut out for him to convince higher-court judges to take full responsibility for their decisions, including at the level of the Constitutional Court and the Supreme Court. Sturm noted, however, that he would address the problem of judicial buy-in after getting the Government's approval of the draft law.

¶4. (SBU) Another law would enact a legal basis for arbitration and mediation of legal disputes, and Sturm said the Ministry will propose separate regulatory changes that would encourage attorneys to use these new methods by guaranteeing them 75 or 80 percent of their fee if they use them. Sturm hoped this would discourage attorneys from the lengthy and costly court process, if they would not gain much more income from it.

15. (SBU) Sturm also reported on a separate project within the Ministry to completely revise the Slovene criminal code. He said that in the last year and a half, about 50 percent of the work had been completed, with the goal of having the rest completed within the next two years. Using Germany as a model, Sturm said he was considering phasing in the new criminal code over a period of five years. The changes would include entirely new roles for public prosecutors and investigative judges.

Property Denationalization

16. (SBU) The CDA asked about the fate of the law Sturm introduced to Parliament in July 2007 to bring about a speedy end to the painful 15-year-old property denationalization process. Sturm said opposition in Parliament was strong, and largely ideological, with detractors calling property claimants "exploitators." Extreme opponents had stalled the bill, claiming that the entire property denationalization process only served to set a precedent that would lead to returning all property to the Catholic Church. (Comment: at one time, the church owned most of the land in the country. Enc comment.) Nevertheless, Sturm said the law would help bring this period of Slovenia's history to a close, once the opposition calmed down a bit.

17. (SBU) The CDA raised in particular the case of the American claiming the kindergarten immediately next door to the Embassy, and the case of the American claiming Radenska, the largest source of spring water in Slovenia and now owned by Lasko Brewery. She noted that these cases and others have languished for years and that the delays are hurting claimants who are growing older while waiting for justice. Sturm claimed that the Government's hands were tied by Supreme Court decisions, and that now the claimants and the Government could do nothing but await the next court rulings. The

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CDA pushed back on the Radenska case, saying that it appeared that the Ministry of Interior had injected itself into the matter by retroactively changing the legal definitions of adults and minors, effectively post-facto cancelling the American's key legal argument. Sturm's reply was vague, saying only that the case was in the hands of the courts.

Jewish Property Restitution

18. (SBU) The CDA welcomed Sturm's statement that the MOJ-funded study of pre-war Jewish properties was expected to be completed within one week. Noting that the separate World Jewish Restitution (WJRO)-funded study into the same question was also nearing completion, the CDA pressed Sturm to proceed with restitution settlement negotiations as soon as feasible, even during the busy EU Presidency period.

Comment

19. (SBU) Sturm's judicial reforms to date have modestly reduced court backlogs, and it remains to be seen if he can convince Parliament to enact his forthcoming legislative proposals, but any effort in this area - especially the hiring of new judges -- is a welcome improvement over the previous neglect. While he extolled the virtues of his proposed law to end property denationalization, it has now been stuck in Parliament for over six months without a single full hearing, and movement on this controversial topic seems unlikely before Slovenia's fall 2008 elections.

110. (SBU) Sturm's claim that the Government must wait for court rulings to resolve the two property denationalization cases raised by the CDA is not consistent with our understanding of local law and procedure. In the kindergarten case, the City of Ljubljana nearly signed an out-of-court settlement with the American claimant two years ago, but reneged when the high court unexpectedly ruled in the City's favor and handed the case back to the lower court for

reconsideration. And in the Radenska spring water case, which hinges on whether or not the claimant was a Yugoslav citizen in 1945, the Slovene Ministry of Interior can reverse its previous denials of the man's citizenship at any time, opening the way for his claim to that valuable property to proceed. The City of Ljubljana and the Ministry of Interior are hiding behind the severely backlogged courts as a convenient excuse and delaying tactic. The CDA urged Sturm to do whatever possible to hasten a resolution of these and other long-standing cases. She noted that the U.S. Government would be focusing more intently on Slovenia in the run-up to the US-EU summit, and that it would be in Slovenia's interest to demonstrate real progress on these issues of deep concern to U.S. citizens.

COLEMAN